

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 486 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SHAIKH BABU SHAIKH GULAM

Versus

STATE OF GUJARAT

Appearance:

MR SHAKEEL A QURESHI for Petitioners

MR. MA BUKHARI APP for Respondent

CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 07/10/97

ORAL JUDGEMENT

Rule. Mr. M.A. Bukhari, learned A.P.P. waives service of rule.

Once it is brought to the notice of the trial court that certain contradictions are left out to be asked to a witness and if a request is made for recalling the witness, ordinarily the trial court should have allowed the same because in cases like the present one under the

Narcotic Drugs and Psychotropic Substances Act, 1985 where presumption is operating against the accused, the request for recalling the witness ought to have been granted. Of course, this is not to say that the request should be granted which is for the sake of asking. Great care should be taken in exercise of this power and awarding cost when it is felt that opportunity though available to the defence has not been properly availed of.

In this background, order below Ex.36 in Sessions Case No.252 of 1996 passed on 4.8.1997 by the learned Additional Sessions Judge of Court No.7 is required to be interfered. The request contained in the said application is granted. The order is set aside. The petitioners shall deposit by way of cost an amount of Rs.1,000/- in the trial court on or before 14.10.1997 and the trial shall proceed further thereafter.

Rule is made absolute accordingly. Direct service is permitted.